IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 5312 of 1998

1. Shri Ashok Dyaneshwar Jachak
2. Shri Pandurang Dyaneshwar Jachak
3. Shri Parshuram Dyaneshwar Jachak
4. Shri Pratap Dyaneshwar Jachak
5. Shri Vishal Prakash Kalbhor
6. Shri Sunil Prakash Kalbhor
   (Minor)
   Guardian Shri Prakash Aknath
   Kalbhor
7. Vishal Prakash Kalbhor
8. Machindra Raosaheb Kalbhor
9. Shri Baban Laxman Thakar
10. Smt.Tulsabai Laxman Thakar
11. Shri Balasaheb Bapusaheb Kalbhor
12. Shri Bhimaji Anant Kalbhor
13. Shri Prashant Bhimaji Kalbhor
14. Shri Promod Bhimaji Kalbhor
15. Shri Sopan Shankar Jagtap
16. Smt.Sarubai Sakharam Raut
17. Shri Abdul Kadir Khan, Abdul
    Nasir Khan
18. Shri Abdul Majeed Khan Abdul
    Latif Khan
19. Shri Abdul Sattar Khan Abdul
    Nasir Khan
20. Shri Abdul Samead Khan Abdul
    Nasir Khan
21. Shri Abdul Nazir Khan Abdul
    Nazir Khan
22. Shri Abdul Gaffar Khan Abdul
    Latif Khan
23. Shri Abdul Jabbar Khan Abdul
    Latif Khan
24. Shri Abdul Gaffar Khan Abdul
    Nasir Khan
25. Smt.Malnabi ABdul Bashir Khan
26. Smt.Chandbi Abdul Rajak Khan
27. SMt.Zeorabi Abdul Rahimkhan
28. Smt.Kulsumbi Abdul Rashid Khan
29. Shri Abdul Bashir Khan Abdul
    Rahim Khan
30. Smt.Zubedabi Mehboob Khan
31. Smt.Zubedabi Mehboob Khan
32. Smt.Khurshid Banu Abdul Kadir
    Khan

All Adults, Occ: Agriculture

all residing at Village Kadam
Wak Vasti Taluka Haveli,Dist.Pune ..Petitioners

vs.

1. Special Land Acquisition Officer
   No.14 Pune
2. The District Rehabilitation
   Officer, Pune
3. Bharat Petroleum Corporation
   Ltd., a company registered
   under the Indian Companies Act,
   1956 having its registered
   office at Bahrain Bahaman
   Ballard Estate, Bombay 400 001

Shri S.B.Deshmukh i/b Shri A.V.Anturkar for petitioners.
Shri S.G.Page for respondent no.3.

CORAM: A.P.SHAH AND
S.C.DHARMADHIKARI JJ
1st December,2004

ORAL JUDGMENT:(Per A.P.Shah J.)

1. Heard Advocates.

2. By this petition under Article 226, the petitioners are seeking to impugn Award (Part I) and Award (Part II) made by respondent no.1 dated 15th April, 1998 under the Land Acquisition Act. The lands of the petitioners are being acquired for public purpose of Bharat Petroleum Corporation's Oil Depot. The only ground on which the the said awards are impugned is that the declaration under sec.6 was not made within the period of limitation of one year.

3. The relevant dates and events as mentioned in the Award are as follows:

(A)	No. & Date of notification under section 4 of the Land Acquisition Act,1894 as provided under section 128 of the Maharashtra Regional & Town Planning Act, 1966	TPS-1895/1334/P.K. 209/95/VV-13, dated 4.1.1996 by Government in Urban Development Department Mantralaya,Mumbai
	Details of Publication of Notification	i) Maharashtra Govt. Gazette, Part I, Pune Division Supplment dated 25.01.1966 on page 166 ii) Daily "Sakal" dated 10.01.96 iii) Daily "Prabhat" dated 10.01.96 iv) On site on 16.02.1996
(A-1)	Corringendum to the above Notification under Section 4 of the Land Acquisition Act, 1894	TPS-1895/1334/P.K. 209/95-NV-13,dated 26.4.1996 by Govt. in Urban Development Department, Mantralaya, Mumbai
	Details of Publication of of the above Corringendum	i) Maharashtra Govt. Gazette, Part I, Pune Division Supplement dated 23.05. 1996 on page 755 ii) Daily "Kesari" dated 19.05.96 iii) Daily "Sandhya dated 18.05.96 iv) On site on 16.06.1996.
(B)	No.& Date of Second Notification undern sec. 4 of the Land Acquisition Act,1894 as provided under sec.128 of the Maharashtra Regional & Town Planning	TPS-1895/1334/P.& K. 209/05-N.V.-13 dated dated 26.4.1996 by Government in Urban Development Department, Mantralaya,

Act, 1966.	Mumbai.
Details of Publication of above Notification	i) Maharashtra Govt. Gazette, Part I, Pune Division Supplment dated 23.05.1996 on page 755 and 756 ii) Daily "Kesari" dated 19.05.96 iii) Daily "Sandhya" dated 18.05.96 iv) On site on 01.06.1996
(C) No. & date of declaration under section 6 of the of the Land Acquisition Act,1894 as provided under section 128 of the Maharashtra Regional & Town Planning Act, 1966.	TPS-1895/1318/P.K. 209/95-NV-13 dated 11.02.1997 by Govt. in Urban Development Department, Mantralaya, Mumbai
Details of Publication of declaration	i) Maharashtra Govt. Gazette, Part I,Pune Division Supplement dated 13-02-1997 on page 316 ii) Daily "Kesari" dated 15.02.97 iii) Daily "Loksatta dated 16.02.97 iv) On site on 14.02.97.
(C-1) Corrigendum to the above Notification under sec.6 of the Land Acquisition Act,1894	TPS-1895/1334/P.K. 209/95-N.V.-13, dated 26.2.98 by Government in Urban Development Department, Mantralaya,Mumbai i) Maharashtra Govt Gazette, Part I,Pune Division Supplement dated 19.03.98 on page 680 ii) Daily "Kesari" dated 3.4.98 iii) Daily "Loksatta dated 3.4.98 iv)On site on 4.4.98

4. The learned Counsel appearing for the petitioners strenuously contended that limitation of one year has to be counted from the date of publication of sec.4(1) notification in the official gazette and its publication in the newspaper and date of notification under sec.4(1) in the locality is not relevant for the purpose of computation of limitation. He submitted that the notification was published in the Govt. gazette on 25th January, 1996 whereas declaration under sec.6 was published in the Govt. gazette dated 11th February, 1997 and thus declaration was clearly beyond the period of one year. He submitted that in any event corrigendum to the notification under sec.6 was issued on 26th February, 1998 i.e. beyond one year and on this count also acquisition proceedings are liable to be set aside.

5. We are unable to accept the submission of the learned Counsel for the petitioners. The limitation for making declaration under sec.6 is prescribed by first proviso to sub-sec.(1) of sec.6. Before Amending Act 1967 there was no limitation prescribed for making the declaration. That Act prescribed a limitation of 3 years from the date of publication of sec.4 (1) notification

for making the declaration. The first proviso has been substituted by amending Act of 1984 and now prescribes a limitation of -

> (1) three years from the date of publication of the notification under section 4(1) in cases where the notification was published between January 20, 1967 land September 24, 1984, and
>
> (ii) one year from the date of publication of the notification under Section 4(1) in cases where the notification was published after September 24, 1984.

Starting of limitation is the date of publication of notification under sec.4(1), and the end point is the making, not the date of publication, of the declaration under sec.6. The date of publication of the notification under sec.4(1) is the last of the dates of publication in the gazette, publication in the newspapers and the giving of public notice. Whichever mode is last utilised the date on which this is done will be the date of publication of the notification. This is so provided in sec.4 itself. (See V.G.Ramachandran's Law of Land Acquisition and Compensation, Eighth

Edition page 274). The argument of the learned Counsel for the petitioner that for the purpose of computing the limitation, the publication of notification in locality as provided in the section has to be ignored is contrary to the express language of the statute.

6. The learned Counsel for the petitioners in support of the plea of limitation heavily relied upon the decision of the Supreme Court in Krishi Utpadan Mandi Samiti and another Vs.l Makarland Singh and others; (1995) 2 Supreme Court Cases 497. We are afraid that this decision has no application to the point involved in this matter. There the question was whether the High Court was right in its conclusion that the declaration under Section 6 was published after 3 years and the last of the publications shall be the last date for the purpose of computing three years period envisaged in clause (i) of the proviso to sub-section (1) of Section 6 of the Land Acquisition Act, 1984. This question was answered by a two Judges Bench holding that the period must be computed from the last date of publication of notification under sec.4(1) to the date of publication of declaration under sec.6 in the official gazette and not in the newspaper.

The Bench was not concerned with the question as to which publication of sec.4(1) notification should be treated as the publication for the purpose of limitation. We may hasten to add that the decision in Krishi Utpadan Mandi Samiti's case is no longer good law. In a subsequent judgment in the case of S.H.Rangappa Vs. State of Karanataka and another; (2002) 1 SCC 538, a 3 Judge Bench of the Supreme

Court relying upon the judgment of the Constitution Bench in Khadim Hussain Vs. State of U.P.;(1976)1 SCC 843 held that the proviso to Section 6(1) which relates to the time limit for issuance of the notification under Section 6(1) cannot be read into sub-section (2) of Section 6. The words "publish" and "from the date of publication of the notification" occurring in proviso (ii) to Section 6(1) refer to the publication of Section 4 notification and have no reference to the publication of any notification under Section 6. Under Sec.6(1), it is only a declaration which is required to be made within the time limit being within one year of the publication of Section 4 notification, it is not the requirement that the declaration would have to be made within the time prescribed under the provisions to Section 6(1) but all other steps, like publication in the daily

newspaper and the Collector causing public notice of the declaration to be given at convenient places in the locality must also be completed within a period of one year of Section 4 notification.

7. In the circumstances, we have no hesitation to hold that in the instant case the declaration under sec.4(1) was made within one year. The argument that corrigendum to sec.6 notification was issued beyond the period of limitation is required to be stated only to be rejected. It is well settled that the corrigendum relates back to the date of notification and in any event the corrigendum which was issued on 19th March, 1998 merely mentions equivalent Gat Nos and it has no bearing as far as limitation is concerned.

8. In the result, for the foregoing discussion, the petition is dismissed with costs.